

IN THE UNITED STATES DISTRICT COURT FOR THE  
DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,	)	8:08CR263
	)	
Plaintiff,	)	
	)	
vs.	)	<b>WRITTEN STATEMENT OF</b>
	)	<b>POSITION ON SENTENCING</b>
ANTONIO RIGOBERTO FRAUSTO,	)	
	)	
Defendant.	)	

COMES NOW the Defendant, by and through his attorney, Jason E. Troia, and objects to the following paragraphs of the presentence report:

1. Paragraph 21 – Defendant argues that the weight should be 2,783 grams.
2. Paragraph 27 & 60 – Defendant’s total offense level would then be 34 with a Criminal History Category I.
3. Paragraph 28 – Defendant argues that no evidence was offered to suggest that Defendant used the weapon in connection with the offense.
4. Paragraphs 39, 40 & 41 – Defendant argues that the Criminal History Category II over represents the seriousness of his criminal history.
5. Paragraphs 75 & 76 – Defendant will be filing a motion for downward departure under U.S.S.G. §5H1.3, 5H1.4 and for a deviance/variation from the guidelines under 18 U.S.C. 3553(a).

WHEREFORE, Defendant prays for the relief requested.

ANTONIO RIGOBERTO FRAUSTO, Defendant,

By: s/Jason E. Troia  
JASON E. TROIA, #21793  
Attorney for Defendant  
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**CERTIFICATE OF SERVICE**

I hereby certify that on April 20, 2009, I electronically filed the Written Statement of Position on Sentencing with the Clerk of the District Court using the CM/ECF system which sent notification of such filing to the following:

Robert Sigler, Assistant U.S. Attorney

and I hereby certify that I have emailed, with return receipt and read receipt requested, the document to the following non CM/ECF participants:

Christopher Niles  
U.S. Probation

s/Jason E. Troia  
JASON E. TROIA, #21793  
Attorney for Defendant